

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MEDIA TEK INC.,

Plaintiff,

vs.

FREESCALE SEMICONDUCTOR, INC.,

Defendant.

Case No.: 11-cv-5341 YGR

**ORDER RE: MOTIONS IN LIMINE
(DKT. NOS. 389 AND 390)**

Plaintiff MediaTek, Inc. (“MediaTek”) has filed its Motions *In Limine* Nos. 1-11 (Dkt. No. 389). Defendant Freescale Semiconductor, Inc.’s (“Freescale”) has likewise filed its Motions *In Limine* Nos. 1-12 (Dkt. No. 390).

First, the Court notes that, in some respects, both parties’ motions *in limine* have exceeded the normal scope of a proper *in limine* motion, making broad attacks on certain theories or claims rather than addressing specific pieces or narrow categories of evidence. In some cases, it appears that the parties have attempted to use the motions *in limine* as a substitute for a motion to strike or a motion for summary judgment. Further, they have each attempted to circumvent the Court’s Standing Order limiting the number of motions to be brought. Accordingly, the Court provides the following rulings to the extent that the specific evidence at issue was apparent on the face of the motion. To the extent it was not, the motion is denied.

Having carefully considered the papers submitted and the arguments of the parties, the Court hereby rules on the motions *in limine* as set forth below.

On MediaTek’s Motions *In Limine*:

NO.	MOTION <i>IN LIMINE</i> SEEKING TO EXCLUDE	ORDER
1	Freescall's Unaccused Products	The Court RESERVES on this issue until such time as Freescall makes a specific proffer of the nature of the particular evidence it seeks to admit and the identification of the sponsoring witness. <i>See</i> forthcoming order on deadlines.
2	Non-Infringing Alternative Theories	DENIED AS MOOT in light of the Court's Order Granting MediaTek's Motion to Supplement Expert Reports, issued concurrently with this order.
3	Pretrial Proceedings	As to exclusion of any discussion of patents or claims no longer at issue, the motion is overbroad and the Court RESERVES until such time as Freescall makes a specific proffer of the nature of the particular evidence it seeks to admit and the identification of the sponsoring witness. However, the Court is inclined to exclude references to patents, claims, and prior art references no longer at issue in the litigation. <i>See</i> forthcoming order on deadlines. As to exclusion of prior <i>Markman</i> arguments, the Court finds the motion MOOT in light of the Court's ruling in Pre-Trial Order No. 3 (Dkt. No. 476). However, the Court may revisit claim construction and arguments made therein as necessary. <i>Pressure Products Medical Supplies, Inc. v. Greatbatch Ltd.</i> , 599 F.3d 1308, 1316 (Fed. Cir. 2010).
4	Injunctive Relief	DENIED AS MOOT – the parties agree this was resolved by the Court's Order re: Injunctive Relief. (Dkt. No. 443.)
5	Opinions That Exceed the Scope of Dr. Vahid's Report	The motion is GRANTED to the extent mooted by the Court's Order Granting MediaTek's Motion for Summary Judgment on Obviousness, issued concurrently with this order, addressing the Bhuyan/Bowes856 reference, and is otherwise DENIED as to the Kawai and Halapete references.

6	Material Freescale Refused to Produce in Discovery	<p>(a) Counsel Opinion – GRANTED</p> <p>(b):</p> <p>1. Customer Use of the Accused Products – GRANTED IN PART as to all evidence except the design win data produced and relied on by experts.</p> <p>2. The MXC91131, MXC91321, or MXC91331 Products – GRANTED IN PART as to all evidence except those documents for the MXC products produced and relied on by MediaTek’s experts.</p> <p>3. Decoder Document: -- <i>To be addressed by separate order based on trial briefs submitted.</i></p> <p>4. Fact Witness Testimony on Infringement-- GRANTED IN PART only to the extent such witnesses seek to offer testimony on any ultimate issue. Otherwise DENIED.</p> <p>5. Fact Testimony On Features Defined in Freescale’s RTL Code-- DENIED</p> <p>6. Expert Opinion On Features Defined in Freescale’s RTL Code—DENIED.</p>
7	Opinion Testimony from Freescale engineer, Allen Wagner	GRANTED to the extent Wagner seeks to offer opinion testimony, but without prejudice to Freescale making a specific proffer for non-opinion testimony. <i>See</i> forthcoming order on deadlines.
8	Claim Constructions That Exceed or Contravene the Court’s <i>Markman</i> Order	MOOT in light of the Court’s ruling in Pre-Trial Order No. 3.
9	Technical Testimony from Freescale damages expert, Brett Reed	DENIED as premature. MediaTek may assert a timely motion at trial, after evidence, if received, regarding the factual predicate for the proffered opinions is not admitted. If ultimately granted, the opinions at pp. 14-15 of his report will be excluded. <i>See</i> MediaTek’s MIL No. 7, above; Pre-trial Order No. 3 at 3 (admissible factual predicate must be established before opinion testimony relying on it).
10	Settlement Agreement	GRANTED

11	Brett Reed's Technical Value Opinions re: (1) an online chat exchange; and (b) undisclosed opinions of Alan Wagner	(a) GRANTED . The Court will allow Freescale to make a proffer regarding the admissibility and relevance of a single chat in light of the attempt to use broadly. <i>See</i> Reed Report at p. 15. (b) GRANTED as to undisclosed opinions <i>only</i> . <i>See also</i> Pretrial Order No. 3 and forthcoming order on deadlines.
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On Freescale's Motions *In Limine*:

NO.	MOTION <i>IN LIMINE</i> SEEKING TO EXCLUDE	ORDER
1	Theory Or Evidence That Freescale Has Indirectly Infringed The '331 Patent	DENIED AS MOOT in light of the Court's Order Granting In Part and Denying In Part Freescale's Motion for Summary Judgment of Non-Infringement, issued concurrently with this order.
2	MediaTek Evidence Relating To Its Own Products	Granted only as to introduction of evidence of the MT8135 product <i>in the jury phase of the trial</i> . Otherwise, Denied. <i>See</i> Order re: Injunctive Relief at 5 ("After the jury trial concludes, the Court will determine whether such additional evidence should be admitted to support a claim for injunctive relief.").
3	Mediatek's Technical Experts From Testifying About The Scope Of The Asserted Claims	DENIED
4	Technical Experts Testimony on Benefits of the Technologies Disclosed in the Asserted Patents or Used in Freescale's Accused Products	DENIED
5	Evidence of the Outcomes of Prior Litigations	DENIED as to evidence of outcomes, with the caveat that the Court will not permit the parties to re-litigate the underlying actions herein.
6	Evidence Relating to Its Sales, Offers for Sale, or Marketing to Amazon/Lab126	MOOT in light of the Court's Order Re Injunctive Relief

7	Evidence of the Dynamic Priorities for the Accused Components of Freescale's I.Mx51 and I.Mx53 Product Families	DENIED
8	Theory or Evidence that "Power Pins" Satisfy the "Power Supply" Limitation of Claim 35 of the '331 Patent	MOOT in light of the Court's Order Granting In Part and Denying In Part Freescale's Motion for Summary Judgment of Non-Infringement, issued concurrently with this order.
9	Theory or Evidence Not Disclosed in Response to Freescale's Interrogatories on Mediatek's Remedy Contentions	DENIED
10	Evidence Not Disclosed in Response to Freescale's Interrogatory Seeking Mediatek's Contentions That Its Patents Are Not Obvious Based on Secondary Considerations	MOOT in light of the Court's Order Granting In Part and Denying In Part Freescale's Motion to Strike Certain Portions of MediaTek's Expert Reports, issued concurrently with this order.
11	Opinion Re: Non-Default Configurations of Freescale's Accused Products	DENIED
12	Testimony of Mediatek's Expert Re: Order in which the DMA Subsystem of '845 Patent, Claim 1 Accesses Subsystems	WITHDRAWN

This Order terminates Docket Nos. 389 and 390.

IT IS SO ORDERED.

Dated: June 20, 2014


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE